

## **HB155—MUSICAL TAX CREDIT—EFFECTIVE JANUARY 1, 2018**

The act provides for a Georgia income tax credit equal to 15 percent of a music production company's qualified production expenditures in the state. For expenses incurred in Georgia's least developed counties, as ranked by the Georgia Department of Community Affairs ([www.dca.state.ga.us/](http://www.dca.state.ga.us/)), there is an extra income tax credit of five percent, bringing the maximum possible credit up to 20 percent. The credits can be carried forward for five years, but they are not transferable or refundable.

### **The credit applies to the following kinds of musical productions:**

1. A touring musical or theatrical production (including touring concerts, ballet, opera, or other live variety entertainment) that originates and is developed in Georgia and has its initial public performance before a live audience in the state, or that has its U.S. debut in Georgia after preparing and rehearsing for at least seven days in the state;
2. A recorded musical performance, including, but not limited to, the score and musical accompaniment of a motion picture, television or digital interactive entertainment production.

### **In order to claim the credit, the production company must first meet certain minimum spending thresholds in the state.**

1. For musical or theatrical productions, \$500,000 during a taxable year;
2. For a recorded musical performance incorporated into a film, television, or digital interactive entertainment production, \$250,000 during a taxable year;
3. For any other kind of recorded musical performance, \$100,000 during a taxable year.

The music tax credit is capped annually, with the cap set at \$5 million for 2018, \$10 million for 2019, and \$15 million thereafter until the credit sunsets in 2023. The credit will be awarded to production companies on a first-come, first-served basis and no single production company may claim more than 20 percent of the annual credit allocation.

## **Frequently Asked Questions**

### **What expenditures are qualified?**

Qualified production expenditures are determined by GDOR and include expenditures incurred in this state on qualified production activities, including set construction and operation; wardrobe, make-up,

accessories, and related services; costs associated with photography and sound synchronization, expenditures (excluding license fees) incurred with Georgia companies for sound recordings and musical compositions, lighting, and related services and materials; editing and related services; rental of facilities and equipment; leasing of vehicles; costs of food and lodging; total aggregate payroll; talent and producer fees; technical fees; crew fees; per diem costs paid to employees; airfare, if purchased through a Georgia travel agency or travel company; insurance costs and bonding, if purchased through a Georgia insurance agency; and other direct costs of producing the project in accordance with generally accepted entertainment industry practices; and payments to a loan-out company.

### **What is the Certification process?**

Each project applying to for the Musical Tax Credit must be pre-certified by the Georgia Department of Economic Development (GDEcD) as a project meeting the criteria of the legislation, and then approved by the Georgia Department of Revenue so that the credits can be earmarked. After all expenditures have been made and the project is complete, final certification must be applied for by the GDEcD and an income tax return filed.

### **How do I get Pre-Certified?**

Each new project to be a state certified production under the Musical Tax Credit must first apply for Pre-Certification with the Department of Economic Development. The production company must submit a fully completed Pre-Certification Application. Projects are pre-certified on a project-by-project basis. Production Companies may be asked to provide budget information, funding sources, production and/or touring schedules, personal information, and any other information the Department of Economic Development requires in order to ensure that the project qualifies for pre-certification.

Upon receipt of a pre-certification letter from the Department of Economic Development, a production company may apply for preapproval with the Georgia Department of Revenue. In applying for preapproval with the Georgia Department of Revenue, a production company must adhere to Rule 560-7-8-.61, titled Musical Tax Credit and must electronically submit Form IT-MC-AP and their pre-certification from the Georgia Department of Economic Development through the Georgia Tax Center.

### **Is there any recourse if I am denied pre-certification?**

If an applicant's pre-certification application is denied by the Department of Economic Development or if the Department of Economic Development fails to provide the applicant with a pre-certification letter

within the thirty (30) day period, the applicant shall have the right to appeal. In the case of a disapproval of a pre-certification application, an appeal may be made by sending a pre-certification appeal letter to the General Counsel, Georgia Department of Economic Development, 75 Fifth Street, NW, Suite 1200, Atlanta, Georgia 30308, within thirty (30) days from the date of issuance of the denial letter by the Department of Economic Development.

What type of projects are not qualified for Musical Tax Credits?

**Projects which do not meet certification requirements include:**

- Musical or theatrical performances that are not intended for touring;
- Musical or cultural festivals that are not intended for touring;
- Industry seminars, trade shows, or markets;
- Award shows;
- Concert series occurring at the same venue with different artists or performers;
- Musical or theatrical performances that do not have the initial public performance before a live audience in this State with ticket sales to the general public;
- Musical or theatrical performances that do not either (i) prepare and rehearse a minimum of seven days within this State; or (ii) engage in a series of performances of a project which originates and is developed within this State.
- Recorded musical performances which are comprised of more than a single musical composition;
- Any projects in violation of Title 16 Chapter 12 of the State's Obscenity Statute; and
- Any other projects that do not comply with the Musical Tax Credit, these regulations or the Georgia Department of Revenue Rule 560-7-8-.61.

**It appears that there is an additional 5% credit available if we run our production in a tier 1 or 2 county. How do I know what counties are tier 1 or tier 2?**

As designated annually by the Georgia Department of Consumer Affairs (DCA), the 159 Georgia counties are ranked into four tier groups, based on unemployment rates, per capita incomes and percentage of residents whose incomes are below the poverty level according to the most recent data available. You will find a Tier Map with your application materials in the pocket of this brochure or it can be viewed online at: <http://www.dca.state.ga.us/economic/TaxCredits/programs/taxcredit.asp>. Please note that these tiers are reevaluated on a calendar basis, so changes in tier rankings may occur each January.

